

ZONING BOARD OF APPEALS AGENDA

**Tuesday, February 2, 2021
5:00PM**

- 1) Call to Order
- 2) Pledge of Allegiance
- 3) Roll Call
- 4) Approve Minutes
 - a. December 1, 2020
- 5) Public Participation (Non-Agenda Harrison Related Items)
Please be advised per State Statute Section 19.84(2), information will be received from the public; be further advised that there may be limited discussion on the information received; however, no action will be taken under public comments.
- 6) Items for Discussion and Possible Action
 - a. Variance - Beach – N9215 N. Harwood Road
- 7) Items for Discussion
 - a. None
- 8) Announcements / Correspondence / Meeting Attendance
- 9) Adjourn

Any person with hearing disabilities or requiring special accommodations to participate in the meeting should contact the Clerk's Office (920-989-1062) at least 24-hours prior to the meeting. This is a public meeting. As such, a quorum of the Village Board, Plan Commission, or Committees may be in attendance. However, the only business to be conducted is for the Zoning Board of Appeals.

Posted: January 21, 2021

Zoning Board of Appeals Minutes
December 1, 2020

- 1) Call to Order: Meeting was called to order at 5:00pm by Planner Mommaerts.
- 2) Site Inspections: Viewed the following properties:
 - a. N9215 N. Harwood Road - Beach.
- 3) Return to Village Hall: Returned to Village Hall from site inspections at 5:20pm.
- 4) Pledge of Allegiance: Pledge was recited.
- 5) Roll Call: Present: Craig Majewski, John Jung, Tom Capper, , 1 seat vacant.
Excused: Scott Chicoine. John Jung led the meeting in Scott's absence.
Staff present: Mark Mommaerts, AICP (Planner).
- 6) Approve Minutes: Motion (Majewski/Capper) to approve the June 16, 2020 minutes. Motion carried 3-0.
- 7) Public participation: There was no public comment.
- 8) Convene Meeting and Enter Public Hearing: The Public Hearing was opened at 5:30pm. The following petitions were heard:
 - a. Variance - Beach – N9215 N. Harwood Road. The hearing notice was read into the record. Testimony was taken from Patrick Beach (Petitioner) who spoke in favor of the variance request. Mr. Beach explained he purchased the property in 2006 and he would like to raise jersey livestock. He stated works needs to be done in the building and around the property before the livestock are brought in. There will be a 4-season pasture on the south side of the building with options for indoor and outdoor areas. A 3-season pasture in a "U" shape along the north, west, and south side of the property. Mr. Beach stated that his daughter wants to raise the livestock and a pony and he wants her to be part of the process. Planner Mommaerts asked how many livestock there will be. Mr. Beach replied there would be 2-3 to start and no more than 12. He will ask others for advice as the herd gets bigger. ZBA Jung asked about the source of food. Mr. Beach responded that he will get feed from a friend who is a farmer. ZBA Capper asked about Mr. Beach's experience with livestock. Mr. Beach responded that he was once a dairy farmer with 100+ head of cattle that milked 3 times a day. ZBA Majewski asked how the manure will be disposed? Mr. Beach responded that he will use straw as bedding as it works well with the manure. It will be stockpiled and spread on adjacent farmland, or another

farmer will take it. ZBA Majewski asked if the pasture areas will be seeded, especially the area where the dirt pile is now. Mr. Beach responded that all areas of the pasture will be seeded/vegetated. Julene Baldwin, N9275 N. Harwood Road, spoke against the variance with concerns about the livestock health, considering there are abandoned vehicles and campers on the property. Gary Natrop, 1801 Kelly Street, Little Chute, asked where the manure will be spread, expressed concern about runoff into the creek. Sandy Oliver, N9276 N. Harwood Road, asked about the 3-acres limit, expressed concern about runoff into the creek, expressed concern about the care of the livestock including feeding and watering if no one lives there, and stated that there were issues on the property several years ago with calves being mistreated. Planner Mommaerts responded that the 3-acre limit has been in place since Harrison took over zoning and it was intended so that a 1-acre lot could not have livestock. Staff memo to the Zoning Board of Appeals dated December 1, 2020 was included.

9) Close Public Hearing and Reconvene Regular Meeting: The Public Hearing was closed and the regular meeting reconvened at 5:55pm.

10) Items for Discussion and Possible Action: The following items were discussed:

- a. Variance – Beach – N9215 N. Harwood Road. ZBA Majewski stated that more information from Calumet County regarding manure runoff would be nice. He also asked Mr. Beach how far away he lives from the property and how big the pasture area was. Mr. Beach responded 1.5-2 miles and that he would check on the property daily and the contingency is his wife going to care for the animals, and that the pasture area is approximately 1-ac. ZBA Jung expressed concern about the pasture being big enough for a dozen cattle. Mr. Beach explained that he would get advice on how many animals to keep. ZBA Capper wanted to know more about the timing of the property clean up and area.

Motion (Majewski/Capper) to postpone, with verbal approval from Patrick Beach, until more information can be provided, including a more detailed site plan indicating pasture dimensions, time frame of when the building will be cleaned up and fencing installed, and information from Calumet County regarding potential manure and runoff issues. Motion carried 3-0.

11) Items for Discussion: None.

12) Announcements/Correspondence/Meeting Attendance: None.

13) Set Next Meeting Date: Next meeting tentatively set for January 5, 2021 at 5:00pm.

14) Adjourn: Motion (Capper/Majewski) to adjourn at 6:14pm. Motion carried 3-0.

Dated: December 2, 2020

Prepared by: Mark Mommaerts, AICP, Planner

Craig Majewski, Secretary Date
Zoning Board of Appeals

ZONING BOARD OF APPEALS MEETING

VILLAGE OF HARRISON

From:

Mark J. Mommaerts, AICP, Planner

Meeting Date:

February 2, 2021

Title:

Variance - Beach

Issue:

Should the Zoning Board of Appeals approve a variance to allow livestock on a property less than 3-acres?

Background and Additional Information:

The applicant, Patrick Beach, is requesting a variance from Section 117-81(g)(2) in order to have livestock on the property. The property is located at N9215 N. Harwood Road and is currently zoned Rural Residential [RR]. The RR zoning district requires a minimum of three (3) acres in order to keep livestock, except poultry. The property is 2.739-acres, which includes the right-of-way for N. Harwood Road.

The applicant is requesting the variance in order to raise jersey cows and steers at the property. The purpose is to try to earn additional income in order to provide for his family. The applicant provided a sketch map indicating the areas where the livestock will be kept. It appears the pasture areas will be on the west side of the property and on the south side of the building. It is unknown how many cows or steers will be at the property.

Initially, there was concern about the number of livestock being raised on the property. At the December meeting, the applicant stated that he would start with 2-3 cattle and work his way up to a dozen. He stated that this is a project he is working on with his children and would like to teach them along the way.

Concerns were raised about the location of manure storage and runoff into the stream along the south side. The Zoning Board directed staff to obtain information from Calumet County regarding manure storage. This information is attached in a memo dated December 29, 2020 from Anthony Reali, County Conservationist. A quick review of the memo is that due to the navigable stream, manure storage is not allowed within 300-feet of the stream, which leave only a small location in the northwest corner of the property to store manure. According to Mr. Reali, the Village could require a crop consultant to prepare a plan to see if the nutrient management standards can be met. This would be a cost to the applicant. There is no county or village permit needed, but if the applicant/property owner is found to be in violation, then there could be daily fines.

Concerns regarding food and water were addressed by the applicant who stated that there is a well on the property that will be able to provide water. He also stated that he lives within miles of the property and plans to be at the property daily to tend to the livestock. If he cannot be there, then someone from his family will be.

Concerns regarding shelter were addressed by the applicant who stated that in addition to the 3-season pasture (along the north and west side of the property), there will be a 4-season pasture where the livestock will have access to the interior of the building.

At the December meeting, the Zoning Board approved a motion to postpone action until more information can be provided, including a more detailed site plan indicating pasture dimension, time frame of when the building will be cleaned up and fencing installed, and information from Calumet County. The information from Calumet County is provided. A detailed site plan from the applicant will be provided as well.

Zoning Ordinance:

117-81. Rural Residential | RR

(g) Lot area.

- (1) Lots shall be a minimum of 1 acre in area, except lots within 300 feet of Lake Winnebago shall be a minimum of 12,000 square feet in area.
- (2) Lots where livestock, except poultry, are kept on the premises shall be a minimum of three (3) acres in area.

Conclusions of Law/Requirements for a Variance [Section 117-360.]:

Variances shall only be granted when the Zoning Board finds that:

1. The variance is not contrary to the public interest and that such a variance will be in general harmony with the purposes and intent of this [Zoning] ordinance.
Staff finds that raising livestock in the Rural Residential zoning district is allowed provided that there is ample room for the livestock and it does not negatively affect adjacent properties. The pasture is proposed to be located on the west and south sides, which do not adjoin other residential properties.
2. The variance will not permit the establishment of a use which is not permitted or permissible in the district.
Staff finds that raising livestock in the Rural Residential zoning district is allowed.
3. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
Staff finds that the structure on the property, pole shed, is generally considered agricultural. It is unknown if this property was split from another property. At the time this property was created, the 3-acre rule for livestock was not in place.
4. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.
Staff finds is unaware of any other properties in the Rural Residential zoning district that have livestock and are less than 3-acres. Properties zoned Rural Residential that are over 3-acres are allowed to raise livestock while properties under 3-acres are not. The intent of the 3-acre provision is to ensure that there is enough room on the property for

livestock to be raised without crowding. A limit to the number of livestock may satisfy the intent of the ordinance.

5. The hardship is not shared generally by other land or buildings in the area.
Staff finds that all properties in the Rural Residential, and General Agricultural, zoning district must have a minimum of 3-acres. However, not all properties zoned Rural Residential are less than 3-acres. Many properties were created prior to the 3-acre requirement for livestock.
6. The hardship results from the strict application of this ordinance and is not the result of self-created or self-imposed circumstances.
Staff finds that the variance is not self-created.

Recommended Action:

Based on the information provided, if a reasonable limit to the number of livestock can be determined and if the pasture location and area is reasonable, and if a suitable location can be found for manure storage, staff recommends approval of the Variance request with following conditions:

1. The exact number of livestock allowed at any given time not to exceed 12.
2. The pasture area and interior pen areas to be prepared and ready and located as indicated on the site plan prior to any livestock being raised on the property.
3. That the manure storage area to meet all state, county, and village requirements in terms of location, runoff control, and other standards.

If it is found that a suitable location for manure storage cannot be identified or that the site cannot be prepared for livestock, then staff recommends that the variance be denied as the variance would not be in the public interest or general harmony of the ordinances.

Attachments:

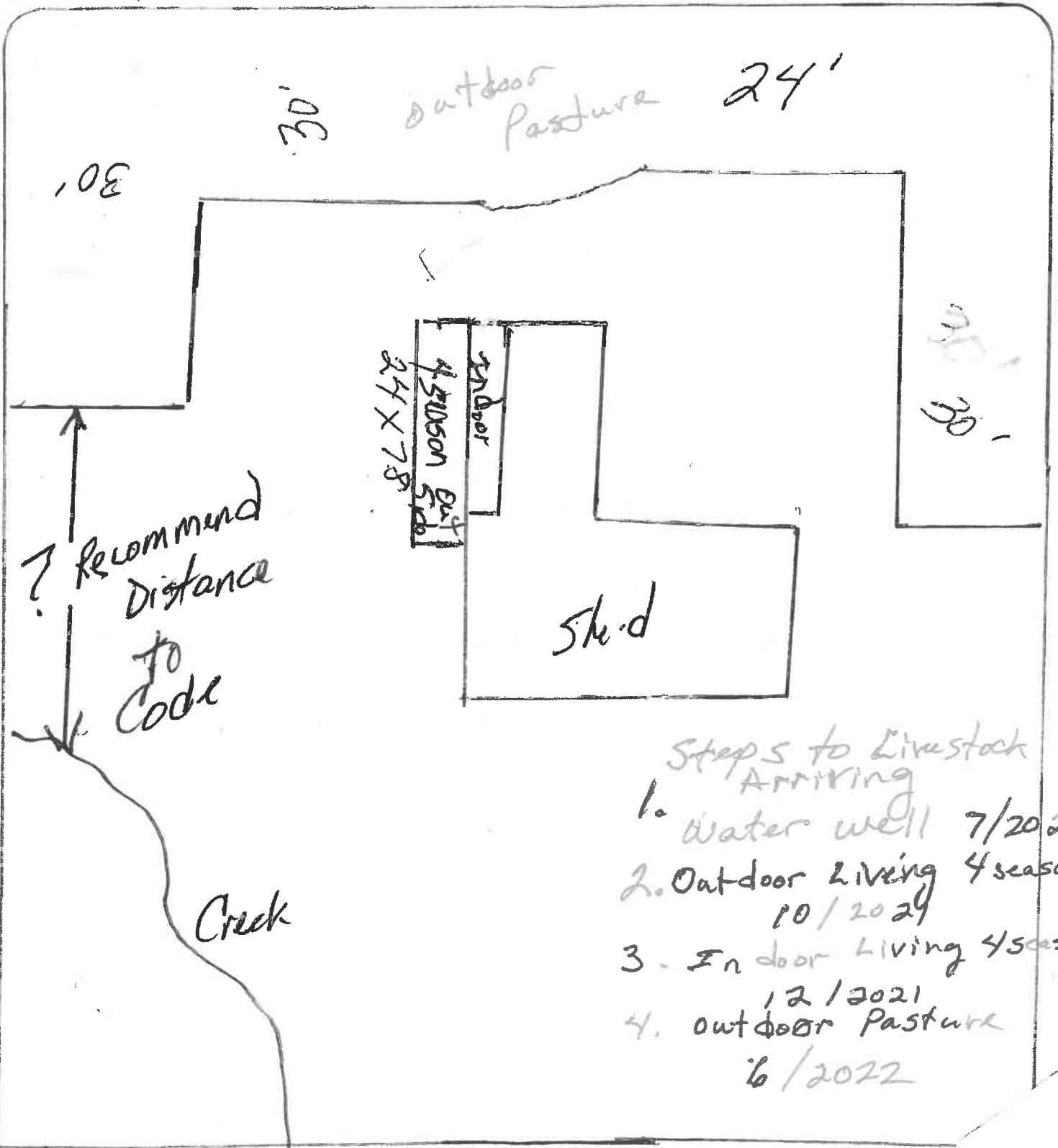
- Aerial Maps
- Applicant narrative
- Site Plan (from original submittal)
- Memo from Anthony Reali, Calumet County Conservationist
- Detailed site plan from applicant

RECEIVED

JAN 20 2021

HARRISON PLANNING

West



Steps to Livestock Arriving

1. Water well 7/2021
2. Outdoor Living 4 seasons 10/2021
3. Indoor Living 4season 12/2021
4. outdoor Pasture 6/2022

Harwood Rd.

Land and Water Conservation

Date: December 29, 2020

To: Mark Mommaerts, Planner, Village of Harrison

From: Anthony Reali, County Conservationist

Re: Patrick Beach Variance Request

It is the Land & Water Conservation Departments understanding that Patrick Beach is requesting a variance from Section 117-81(g)(2) in order to have livestock on his 2.739 acre property at N9215 N. Harwood Road. The RR zoning district requires a minimum of 3 acres in order to keep livestock, except poultry. It is the Department's understanding that Beach intends on having 2-3 cattle initially and plans to have 12 cattle and 1-2 horses in the future.

The State Administrative Code Chapter NR 151 – Runoff Management as well as Chapter ATCP 50 Soil and Water Resource Management Programs address concerns in regard to nutrient runoff to Waters of the State. The following sections address this scenario.....

NR 151.08 Manure management prohibitions.

- (1) All livestock producers shall comply with this section.
- (2) A livestock operation shall have no overflow of manure storage facilities.
- (3) A livestock operation shall have no unconfined manure pile in a water quality management area.
- (4) A livestock operation shall have no direct runoff from a feedlot or stored manure into the waters of the state.
- (5)
 - (a) A livestock operation may not allow unlimited access by livestock to waters of the state in a location where high concentrations of animals prevent the maintenance of adequate sod or self-sustaining vegetative cover.
 - (b) This prohibition does not apply to properly designed, installed and maintained livestock or farm equipment crossings.
- (22) "Unconfined manure pile" means a quantity of manure that is at least 175 ft³ in volume and which covers the ground surface to a depth of at least 2 inches and is not confined within a manure storage facility, livestock housing facility or barnyard runoff control facility or covered or contained in a manner that prevents storm water access and direct runoff to surface water or leaching of pollutants to groundwater.
- (24) "Water quality management area" or "WQMA" means the area within 1,000 feet from the ordinary high water mark of navigable waters that consist of a lake, pond or flowage, except that, for a navigable water that is a glacial pothole lake, the term means the area within 1,000 feet from the high water mark of the lake; the area within 300 feet from the ordinary high water mark of navigable waters that consist of a river or stream; and a site that is susceptible to groundwater contamination, or that has the potential to be a direct conduit for contamination to reach groundwater.



NR 151.07 Nutrient management.

- (1) All crop producers and livestock producers that apply manure or other nutrients directly or through contract to agricultural fields shall comply with this section.
- (3) Manure, commercial fertilizer and other nutrients shall be applied in conformance with a nutrient management plan.

ATCP 50.04 Farm conservation practices. Except as provided in s. ATCP 50.08, a landowner engaged in agricultural practices in this state shall implement the following conservation practices:

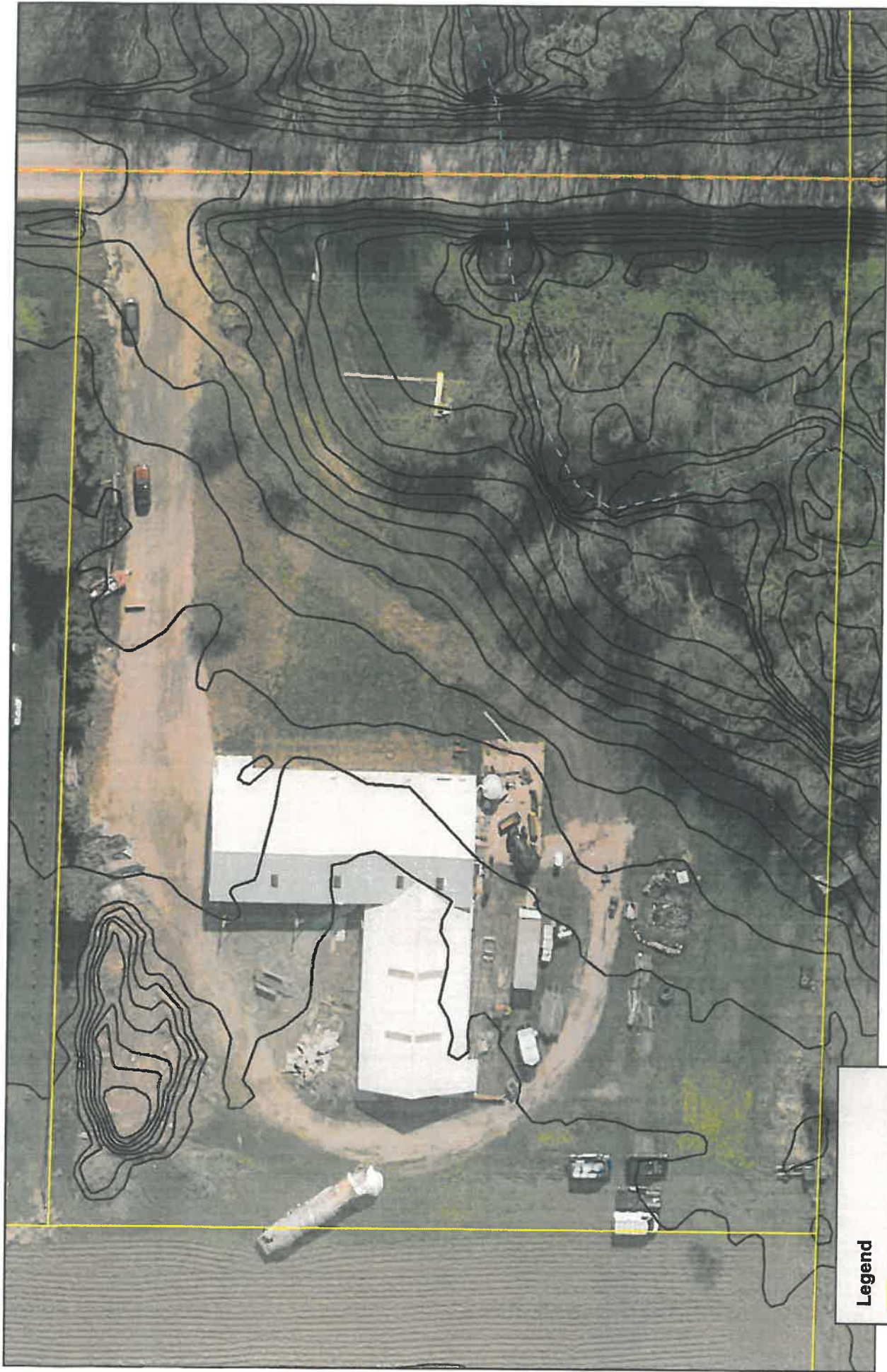
(3) NUTRIENT MANAGEMENT PLAN.

- (a) A landowner shall have and follow an annual nutrient management plan when applying nutrients to any field, including pastures, after the date specified in par. (h). A nutrient management plan shall comply with this subsection.

There are two maps attached to this memo, one showing the property with 1 ft. contours and an unnamed tributary to Kankapot Creek identified as a dashed blue line and the other is map from SnapMaps 20 showing the Water Quality Management area in regard to this property.

If manure is to be stacked on the property the only area that would be proper would be in the farthest northwest corner of the property near the property line. This property is small in size and in an area that has flow towards the unnamed tributary mentioned above and shown on the map. Therefore this property poses a high risk for runoff to Waters of the State.

Patrick Beach



1 inch = 50 feet

Legend

- Parcels - ADDRESS
- Rivers
- Streams



Beach WQMA - 300Ft.
Farm: , V20 Generated:12/28/2020, Crop year: n/a, Township Range Section:20N 19E s8



Calumet County, WI

Legend

- Address Point
- ▭ County Boundary
- ▭ Wisconsin Water
- Unincorporated Community
- ▭ Town Boundary
- Point of Interest
- ▭ Parcel Boundary
- ▭ Property Hook
- ▭ PLSS Section
- ▭ State Parks
- ▭ County Parks
- ▭ Lake
- River and Stream
- Major Roads
- Local Roads
- Local Roads
- Local Roads
- Manicured Streets
- Trill
- Railroad

- Color 2018
- Red: Band_1
 - Green: Band_2
 - Blue: Band_3



DISCLAIMER: This map is not guaranteed to be accurate, correct, current, or complete and conclusions drawn are the responsibility of the user.

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| Author: | |
| Date Printed: | 10/08/2018 8:57 AM |
| File Name: | 10/08/2018 8:57 AM |



Calumet County, WI

Legend

- Address Point
- County Boundary
- Wisconsin Water
- Unincorporated Community
- Town Boundary
- Point of Interest
- Parcel Boundary
- Property Hook
- PLSS Section
- State Parks
- County Parks
- Lake
- River and Stream
- Major Roads
- Local Roads
- Local Roads
- Local Roads
- Manhole Streets
- Traffic
- Railroad

Color 2018

- Red: Band_1
- Green: Band_2
- Blue: Band_3



DISCLAIMER: This map is not guaranteed to be accurate, correct, current, or complete and conclusions drawn are the responsibility of the user.

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| | |
| Author: | |
| Data Provider: | Calumet West AIA |
| Source: | |



To Whom it May Concern:

I am writing this letter regarding the property located at N9215 Harwood Rd. Kaukauna, WI 54130.

I would like to receive a variance to raise livestock at this property.

This will help our family to cope with the covid-19 pandemic and loss of income. This variance would help me provide for my family.

I would like to raise jersey cows & steers at this property.

Enclosed is the \$350.00 variance fee.

Thank you for your time and consideration,

Patrick H. Beach
N9215 Harwood Rd
Kaukauna, WI 54130
PH: 920-716-2467

Pat Beach

N ↑

Driveway

Pasture

Pasture

